



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

FOO/144052

PRELIMINARY RECITALS

Pursuant to a petition filed September 24, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Ozaukee County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on October 23, 2012, at Port Washington, Wisconsin.

The issue for determination is whether the agency properly computed and allocated petitioner's medical expenses for purposes of determining her monthly FoodShare allocation.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Kyra Meyer, ESS
Ozaukee County Department of Social Services
121 W. Main Street
PO Box 994
Port Washington, WI 53074 -0994

ADMINISTRATIVE LAW JUDGE:

Michael A. Greene
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Ozaukee County.
2. Petitioner applied for FoodShare (FS) benefits on January 25, 2012.

3. Petitioner provided verification of a single prescription as an allowable medical expense on February 9, 2012. The agency applied the expense to petitioner's February budget and issued a notice of decision on February 17, 2012 approving the application and setting petitioner's allocation at \$13 for January 2012, \$158 for February 2012 and \$62 for March 2012 (Exhibit 2).
4. Petitioner provided additional prescription bills in March 2012 and advised the agency that she expected to have ongoing medical expenses of \$123 per month. No verification was submitted for the latter statement, so the agency averaged the new medical bills over the remaining months of the certification period. By notice of decision dated March 12, 2012, petitioner was advised that her FS benefits would increase to \$76 beginning in April 2012 (Exhibit 5).
5. After considerable additional discussion and the provision of several more months' worth of medical bills, the agency finally reviewed the case in June 2012. It determined that the initial medical bills had been properly applied and that additional bills should be averaged and applied for the remainder of the certification period, from April 2012 through September 2012. A notice of decision increasing FS benefits to \$130 effective April 2012 was sent to petitioner on June 25, 2012 (Exhibit 10).

DISCUSSION

FoodShare (FS) is a joint federal-state program that is intended to improve the overall health of lower-income households by enhancing their access to food. Eligibility and benefits levels are generally based on household size and income with larger FS allotments being issued to the households that have less income. The program allows for a deduction from income for medical expenses, 7 CFR 273.9(d)(3).

Income is budgeted prospectively, that is, a household is expected to make a reasonable estimate of the income that it expects to have over the benefits' certification period, 7 CFR 273.10(c)(1). Income and deductions need to be verified, meaning that all income and each deduction must be documented in order to be considered under the program. Therein lies the difficulty with this case. Petitioner submitted medical bills for January 2012 and for subsequent months, insisting that all of her bills be averaged over the certification period. To construct a meaningful average, however, the agency would have required several months' worth of bills to allow for reasonable fluctuations in expense levels. This was not possible, because petitioner kept submitting current bills and did not accumulate any history of expense levels for several months. The agency properly treated the medical expenses levels as changes and applied them to future months, adjusting FS benefits accordingly.

Petitioner asserts that the agency should have told her that multiple months' receipts were required in order to average expenses over the certification period and it does not appear that the agency ever requested multiple months' worth of bills or suggested that petitioner provided back bills in order to verify her claim. A delay in processing her case from March 2012 through June 2012 did not help matters. While the applicant is responsible for providing verification of the information supplied on the application and during reviews, the agency has to provide some guidance as to what information it needs. It appears that the communication between the parties could have been better in this case.

My solution is this: the case will be remanded with instructions for the agency to average all of petitioner's medical expenses over the full certification period and calculate the amount of FS benefits that would have been issued under that arrangement. If the new figure is higher than the benefits actually paid, the agency will issue a supplement for the difference. If not, it would appear that agency has handled the matter in the manner most advantageous to petitioner and the appeal will be dismissed.

CONCLUSIONS OF LAW

Petitioner was entitled to provide a history of medical expenses in order to have recurring expenses averaged over her FS certification period.

THEREFORE, it is

ORDERED

That the matter be remanded to the agency with instructions to recalculate the benefits that would have been payable to petitioner had all verified medical expenses been averaged over the full certification period. If the total benefits payable over the certification period exceed the FS benefits actually paid, a supplemental allocation shall be issued to cover the difference. These actions shall be taken within ten (10) days of the date of this decision.

If the total benefits payable calculated as described above are less than the benefits actually paid over the certification period, the petition for review shall be dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

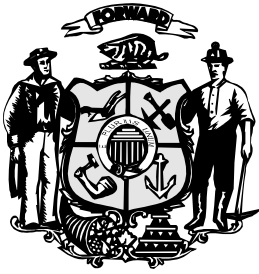
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 20th day of November, 2012

\sMichael A. Greene
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on November 20, 2012.

Ozaukee County Department of Social Services
Division of Health Care Access and Accountability